

T. W. asks the Utah Labor Commission to review Administrative Law Judge Marlowe's dismissal of Mrs. W.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

ISSUE PRESENTED

R. W. died on October 21, 2003. On May 31, 2005, Mrs. W., his widow, filed an Application for Hearing with the Commission to compel Butterfield Lumber and its insurance carrier, St. Paul Fire & Marine (referred to jointly as "Butterfield" hereafter), to pay workers' compensation dependent's benefits to Mrs. W.. On July 18, 2005, Judge Marlowe dismissed Mrs. W.'s Application because it was not filed within one year of Mr. W.'s death, as required by §34A-2-417(3) of the Act.

In requesting Commission review of Judge Marlowe's dismissal of her claim, Mrs. W. contends that, under the facts of this case, the Commission should recognize an exception to the one-year limitation of §34A-2-417(3).

FINDINGS OF FACT

R. W. died on October 21, 2003, while employed by Butterfield Lumber. At the time of his death, Mr. W. was married to Terri W.. On October 23, 2003, Butterfield informed Mrs. W. that it would not pay dependent's benefits under the workers' compensation system because it did not believe Mr. W.'s death was work-related. Butterfield issued this denial to Mrs. W. on the Labor Commission's form 89, which contained the following instruction:

NOTICE TO THE CLAIMANT: If you are in disagreement with the carrier and cannot resolve your differences by talking with the carrier and/or your treating physician, you should then call the Labor Commission, Division of Industrial Accidents, for further instructions.

Despite this instruction to contact the Labor Commission, Mrs. W. did not do so. However, within three to six months of Mr. W.'s death, Earl Landrum, Mrs. W.'s father, called the Workers Compensation Fund seeking acceptance of a claim for dependent's benefits. The Workers Compensation Fund informed Mr. Landrum that the Fund was not Butterfield's insurance carrier.

Mrs. W. filed an Application for Hearing with the Commission to compel Butterfield to pay dependent's benefits to Mrs. W. for R. W.'s death on May 31, 2005, one year and seven months after Mr. W.'s death.

DISCUSSION AND CONCLUSION OF LAW

Sections 34A-2-401 and 34A-2-414 of the Act provide benefits to the dependants of workers who die from work-related accidental injuries. However, §34A-2-417(3) of the Act bars a claim for dependent's benefits if an Application for Hearing is not filed within one year of the date of the worker's death.

It is undisputed that Mrs. W. did not file her Application for dependent's benefits until more than one year had elapsed from the date of her husband's death. However, she justifies the untimely filing of her Application on the grounds that: 1) the one-year statute of limitations does not apply to her situation under the principles announced in Vigos v. Mountainland Builders, Inc., 993 P.2d 207 (Utah 2000); 2) Butterfield is barred from asserting a statute of limitations defense by the doctrine of equitable estoppel; and 3) because the filing of forms 89 (Employee Notification of Denial of Claim) and 122 (Employer's First Report of Injury or Illness) with the Labor Commission prior to the one-year anniversary of the death of Mr. W. placed Butterfield on notice.

Application of Vigos Decision

Mrs. W. argues that, in accordance with the principles stated in the Utah Supreme Court's decision in Vigos v. Mountainland Builders, Inc., the one-year statute of limitations has been satisfied in this case. However, the Court's ruling in Vigos is distinguishable from the facts of Mrs. W.'s claim. In Vigos, the Court allowed a claim for permanent total disability to proceed wherein the employer had previously admitted liability, paid medical expenses, and paid temporary disability payments within the applicable six-year statute of limitations period. Under these circumstances, the Court reasoned that the statutory requirement for filing an Application had been met by the parties' actions. In contrast to the facts of Vigos, in this case Butterfield never accepted liability for Mrs. W.'s claim, nor did Butterfield pay any benefits. It is undisputed that Mrs. W. was aware by October 23, 2003, that Butterfield had denied all liability. In light of the differences in fact between Vigos and Mrs. W.'s claim, the Commission concludes that the holding of Vigos does not extend to this claim.

Equitable Estoppel

Mrs. W. also contends that Butterfield is equitably estopped from asserting its statute of limitations defense. Mrs. W. bases this argument on a telephone conversation that took place between Mr. Landrum, Mrs. W.'s father, and representatives of the Workers Compensation Fund when Mr. Landrum called the Fund seeking assistance.

Equitable estoppel is "a defensive doctrine preventing one party from taking unfair advantage of another when, through false language or conduct, the person to be estopped has induced another person to act in a certain way, with the result that the other person has been injured in some way." Black's Law Dictionary (8th ed.2004). Because the Workers Compensation Fund was not a party to this matter, Mrs. W. cannot rely on the Fund's statements to support her claim of equitable estoppel against Butterfield. Butterfield itself made no representations to Mrs. W., other than to explicitly deny liability. Under these circumstances, the Commission concludes that the

doctrine of equitable estoppel is not applicable.

Notice

Mrs. W. claims that the filing of forms 089 (Employee Notification of Denial of Claim) and 122 (Employer's First Report of Injury or Illness) with the Labor Commission prior to the one-year anniversary of the death of Mr. W. placed Butterfield on notice of Mrs. W.'s claim. There is no question that Butterfield was, in fact, on notice. However, §34A-2-417(3) requires more than notice. It requires filing of an Application within one year.

While the Commission is sympathetic to Mrs. W.'s unfortunate situation, it must apply §34A-2-417(3) according to its plain language. The Commission therefore concludes that §34A-2-417(3)'s one-year limitation bars Mrs. W.'s claim.

ORDER

The Commission affirms Judge Marlowe's dismissal of Mrs. W.'s Application for Hearing and denies Mrs. W.'s motion for review. It is so ordered.

Dated this 19th day of June, 2006.

R. Lee Ellertson
Utah Labor Commissioner